IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 16.03.2020	Pronounced on: 08.05.2020

Coram::

The Honourable Ms. Justice P.T.ASHA

Application No.97 of 2020
and
Original Application No.1065 of 2019
in C.S.No.674 of 2019

1. C.Durairaj,
2. D.Logeswari,
3. U.Ugmabai,
4. S.Saravanan,
5. M.Aravinth, ... Applicants

/Versus/

1. K.Baby,
2. V.K.Ekambaram,
3. S.Rajeswari,
4. N.Soundary,
5. Bharathi Balakumar,
6. P.Mahendren,
7. K.Baskar,
8. K.Parthiban,
9. K.Chandran, ... Respondents

Prayer in Application No.97 of 2020:-

Judge's summons under Order XIV Rule 8 of Original Side Rules read with order VII Rule 11 (a), (b) and (d) of the Code of Civil Procedure Code, 1908.

(i). To reject the plaint, as being instituted without cause of action, barred by Limitation and for filing the suit without paying proper Court Fee in relation to the reliefs sought by the plaintiffs, pending disposal of the suit.

For Applicants : Mr.T.R.Rajagopalan, Senior Counsel for M/s.S.Packiaraj

For R1 to R6 : Mr.R.Manickavel

ORDER

This application has been filed by the defendants 1 to 5 to reject the plaint on the ground that the same is bereft of cause of action and barred by limitation, apart from the suit being insufficiently valued.

2. Before proceeding to deal with the application in question, it is necessary to briefly touch upon the contests of the Plaint filed by the respondents 1 to 6 herein in C.S.No.674 of 2019. The suit which is now sought to be rejected has been filed for the following reliefs.

(a). Granting a declaration that the plaintiffs and the defendants 6, 7 & 8, are the absolute owner of the property bearing Old Door No.19, New Door No.42, Present Door No.24, Ayyavu Naidu Street, Lakshmipuram, Shenoy Nagar, Chennai – 600 030, comprised in S.Nos.61/1A1, R.S.No.11, S.No.61/8 (part), Block No.21 of Aminjikarai Village, Anna Nagar Taluk, measuring an extent of 5980 sq.ft., which is more particularly described the schedule hereunder.

(b). Granting a decree for delivery of possession directing the defendants 1 to 5 to deliver possession of the schedule mentioned property to the plaintiffs.

(c). Granting a declaration that the following documents i to viii registered in the Sub Registrar Office of Sembium and Anna Nagar are null and void.

Office records;

(i). Sale deed dated 10.06.1966, registered as Document No.2248 of 1996, at the SRO Sembium allegedly executed by late Kannappa Mudaliar in favour of Krishnan Nadar.

(ii). Deed of partition dated 18.03.1992, registered as Document No.1557 of 1992 at the SRO Anna Nagar, executed among the sons of late Krishnan

Nadar.

(iii). Sale deed dated 20.11.1992, registered as Document No.5852 of 1992 at the SRO Anna Nagar, executed by Bakiyanathan to and in favour of Sellapillai.

(iv). Sale deed dated 20.11.1992, registered as Document No.5853 of 1992 at the SRO Anna Nagar executed by Bakiyanathan in favour Logeswari.

(v). Sale deed dated 20.11.1992, registered as Document No.5854 of 1992 at the SRO Anna Nagar executed by Bakiyanathan in favour of C.Muthu.

(vi). Sale Deed dated 20.11.1992, registered as Document No.5855 of 1992 at the SRO Anna Nagar executed by Bakiyanathan in favour of Durairai.

(vii). Sale Deed dated 20.11.1992, registered as Document No.5856 of 1992 at the SRO Anna Nagar executed by Bakiyanathan in favour of Saravanan.

(viii). Sale deed dated 30.01.2012, registered as Document No.270 of 2012 at the SRO Anna Nagar executed by Selvaperumal in favour of U.Ugmabai, the third defendant.

3. The parties are referred to in their ranking as given in the suit. It is the case of the plaintiffs that the suit property originally belonged to one Kannappa Mudaliar, who had purchased the same under two registered deeds of sale dated

06.02.1951 and 19.02.1951, registered as Document No.242 of 1951 and Document No.327 of 1951 on the file of the S.R.O, Sembium, respectively. The 1st plaintiff, 3rd plaintiff and 4th plaintiff and late Radha Vedhappan are the daughters of the said Kannappa Mudaliar. The 2nd plaintiff V.K.Ekambaram, late.Balakumar, K.Parthasarathy, the 6th, 7th and 8th defendants are the sons of late Kannappa Mudaliar. The 5th plaintiff is the wife of late.Balakumar and 6th plaintiff is the son of late Parthasarathy. It is the case of the plaintiffs that they along with defendants 6 to 8, are the legal heirs of Kannappa Mudaliar, who on his death, had inherited the suit property.

4. The plaintiffs would contend that the 1st defendant is occupying the building situate on the western side of the suit property and the remaining portion in the eastern side measuring an extent of 2254 sq.ft., is a vacant land, which continues to remain in the possession of the plaintiffs. They would contend that during the lifetime of Kannappa Mudaliar, he was in the business of selling bricks under the name of style of “M/s.Kumaran Brick Works”, in a portion of a suit property, in partnership with one late Krishnan Nadar, Late.Vajavelu Mudaliar and late.Rajarathinam Chettiar. The remaining portion was let out to tenants which included the 1st defendant. The plaintiffs would contend that one Thirunavukarasu Mudaliar, co-brother of Kannappa Mudaliar was in charge of business and he had been carrying on all dealings in name of his co-brother Kannappa Mudaliar. On 23.07.1996, Kannappa Mudaliar died, leaving behind him surviving his sons and daughters described supra. The children were all minors at the time of the death of Kannappa Mudaliar and the documents relating to the business as well as the property was in the custody of Thirunavukarasu Mudaliar. The plaintiffs would contend that the said Thirunavukarasu Mudaliar had betrayed the trust reposed on him and conniving with one Krishnan Nadar, had fabricated the documents to show, as if the property had been sold to the said Krishnan Nadar on 10.06.1966 under a deed of sale registered as document No.2248 of 1966 at S.R.O. Sembium.

5. The plaintiffs would further contend that in the month of June 1966 Kannappa Mudaliar was bed ridden and remained seriously ill till his death on 23.07.1996. He was bedridden for over six months and had died at the General Hospital, Chennai. Six months prior to his death. The said Kannappa Mudaliar had become totally bed ridden on account of Lungs Cancer. During this period, according to the plaintiff, the said Thirunavukarasu Mudaliar and Kannappa

Mudaliar's partner Krishnan Nadar had swindled the properties and assets of Kannappa Mudaliar. After the death of Kannappa Mudaliar, Thirunavukarasu Mudaliar and Krishnan Nadar had taken contract of the building.

6. The plaintiffs would further contend that on their becoming major, they have received a notice from the Revenue Authorities namely the Collector of Chennai, stating that Krishnan Nadar had applied for the grant of Patta. It was only when the plaintiffs had received the above proceedings that they have come to know about the fabricated sale deed in favour of Krishnan Nadar. The Court below also found several corrections and alterations in the sale deed. The documents in question namely the sale deed dated 10.06.1966, contained only the signature of the 1st vendor and vendors 2 to 6 were shown as minors. The plaintiffs would further contend that the very sale deed is a forged and fabricated document. It is evident from the facts that the original sale deed has not been produced and only the copy sheet has been stealthily inserted. The plaintiffs have attacked the veracity of the said sale deed and would submit that a mere perusal of the same would clearly prove that the document in question has been created.

7. The plaintiffs would further contend that, on enquiry the Collector, Chennai, has discussed in his order dated 30.03.2004 in Ref.No.J3/3949/2003 that the above document is fake and bogus and had consequently directed cancellation of patta issued to C. Durairaj.

8. The plaintiffs would further submit that, thereafter, the Special Commissioner, Land Administration, vide order dated 07.04.2005 in Ref.No.D.Dis.K4/RP43/04, was also pleased to confirm the order passed by the Collector dated 30.03.2004. The fake and bogus documents has been produced before the Authorities for transfer of Patta only in the year 2000. The document was earlier never in existence. The plaintiffs would further submit that meanwhile the defendants 1 to 4 have filed Civil Suit in O.S.No.3008 of 2005, on the file of VII Assistant City Civil Court, Chennai, against one of the sons of late.Kannappa Mudaliar. The Commissioner, Land Administration, the Collector and Tahsildar, claiming title to the suit property to an extend of 5980 sq.ft. This suit has been dismissed and there is no appeal preferred against the judgment and decree, which has been passed by the Learned VII Assistant City Civil Court, Chennai.

9. The very same dispute has been once again raised in W.P.No.35565 of 2007 and this Writ Petition was dismissed stating that the Writ Court cannot go into the documents and same has to be moved before the competent forum. The defendants, according to the plaintiffs, was in habit of filing series of suits totally suppressing the earlier proceedings. The plaintiff would submit that considering the fact that the defendants 1 to 6 are claiming under Krishnan Nadar, it had become imperative for them to move this Court for the reliefs claimed herein above.

10. The plaintiffs have attacked all the transactions made by the defendants 1 to 6. The plaintiffs has valued the suit for the purpose of Court Fees Act for Rs.1,05,40,000/- has been fixed as the value of the suit property and for the relief of declaration, suit is valued at Rs.1,08,525/- and a Court fees of Rs.3,000/- has been paid.

11. On receiving the summons in the above suit, the defendants have come forward with the application, subject matter of this order. The defendants seek to have the plaint rejected on the ground that it is clearly barred by limitation and an abuse of process of Court and also a clandestine attempt to grab the properties.

12. The Defendants 1 to 5, who are the applicants in this application has contended that on the face of the record, it is clearly evident that the suit is barred by limitation. The suit ought to have been filed within a period of three years from the date of registration of the sale deed of the year 1966. The defendants have further referred to the contention of the plaintiffs in the plaint that they were minors at the time of registration of the sale deeds by Kanappan Mudaliar on 10.06.1966. The defendants would contend that at the time of registration of the sale deed, the plaintiffs 1 & 2 were not minors and the reference to the inclusion of the children in the document was merely by way of abundant caution.

13. The defendants would contend that the limitation for filing the suit had commenced even as on 10.06.1966 when the 1st sale deed was executed and registered and the suit ought to have been moved within three years from the date of the plaintiffs attaining majority to set aside the same. In the instance case, the plaintiffs have not come forward to file the suit, within the stipulated time but have waited for over five decades to file the suit. The defendants 6 to 8, who are also siblings of the plaintiffs have not filed the above suit. Further, the 2nd plaintiff was not a party to the sale deed dated 10.06.1966. Likewise, the plaintiffs 1, 3 & 4 were not also parties to the sale deed. The plaintiffs 1 to 3 had attained majority at the time of the sale of the property on 10.06.1966. Therefore, they cannot maintain the present suit for setting aside the sale deed as the same should have been filed within a period of three years from the date of sale. The 4th plaintiff had attained majority in the year 1975 and should have filed the suit within a period of three years therefrom. Likewise the deceased Parthasarty had attained majority in the year 1967 and till his death had not challenged the sale and therefore his legal heirs cannot maintain this suit. Similarly, the 5th plaintiff had attained majority in the year 1979.

14. The applicants in the present application cannot also invoke the provisions of Article 14 of Limitation Act, to contend that though the cause of action arose on the date when the sale deed was executed they were prosecuting the revisions before the Revenue Authorities and therefore, there was no question of applying the provisions of Article 14 of Limitation Act. The defendants would further submit that the cause of action pleaded is nothing but a moonshine statement. They would further contend that the suit property has been grossly undervalued. On these grounds, the defendants sought to reject the plaint.

15. The foremost defence taken out by the plaintiffs is that they had been genuinely prosecuting the matter before the Revenue Authorities and therefore, the question of limitation would not arise as the period taken for prosecuting the case before the Revenue Authorities was exempt as per Section 14 of the Limitation Act. They have further contended that the question of limitation is mixed question of law and facts and cannot be taken up at initial stage and plaint rejected at the threshold. The plaintiffs would further contend that the petitioners have failed to prove their lawful possession or title over the suit property and that they are in unlawful possession of an extent of 3726 sq.ft and the remaining vacant land is in the possession and enjoyment of the plaintiffs. The Court fees paid is correct and there is no question of it been grossly undervalued. The plaintiffs would therefore contend that there is no question of rejecting the plaint at the initial stage.

16.Mr.T.R.Rajagopalan, Learned Senior Counsel arguing on behalf of the defendants would contend that the Revenue proceedings had been commenced in the year 2005 and at that juncture itself, the plaintiffs were aware of the fact that the defendants had obtained the sale deed even as early as in the year 1966 and when the plaintiffs ought to have been filed a comprehensive suit immediately thereafter. The

Learned Senior Counsel would further contend that the person who was prosecuting the Revenue proceedings, viz., the 7thdefendant is not the plaintiff herein. The reason for not impleading the 7th defendant as a plaintiff was made with a malafide motive of ensuring that he would not be subject to cross examination.

17. The Learned Senior Counsel would draw the attention of this Court to the proceedings of the Collector of Chennai, dated 30.03.2004 and contend that the issue before the Collector was cancellation of the Patta standing in the name of Lakshmi ammal and others including the petitioner Baskar without an enquiry and title was not the issue in these proceedings. The patta was set aside only on the ground that notice had not been given to the parties concerned. The Collector of Chennai, had directed the parties to move the Civil Court for declaring their title and possession over the land. He would further contend that the same observation has been made by the Special Commissioner and Commissioner of Land Administration in the revision filed by the defendants against the order of the District Collector.

18. The Learned Senior Counsel would also invite the attention of this Court in its order dated 18.04.2009 in W.P.No.35565 of 2007, wherein, once again this Court had clearly observed that the issue involved in the Writ Petition can be resolved only by a Civil Court and the issue of title cannot be dealt with by the Writ Court or the Revenue Authorities. The Learned Senior Counsel would therefore contend that, even as early as in the year 2004, the Collector had passed the order advising the plaintiffs to approach the Civil Court to have their title declared. However, without filing the suit, the plaintiffs have moved this Court only in the year 2009 and therefore, the suit on its very reading is barred by limitation. He would further contend that Section 14 of the Limitation Act, cannot be invoked to condone the delay in filing the suit.

19. The Learned Senior Counsel appearing on behalf of the applicant relied upon the judgment of Hon'ble Supreme Court in ***Raghwendra Sharan Singh Vs. Ram Prasanna Singh by LRs.*** reported in ***2019 SCC OnLine SC 372*** and has relied exclusively on paragraph Nos.28 and 29.

> *28. Applying the law laid down by this Court in the aforesaid decisions on exercise of powers under Order 7 Rule 11 of the CPC to the facts of the case in hand and the averments in the plaint, we are of the opinion that both the Courts below have materially erred in not rejecting the plaint in exercise of powers under Order 7 Rule 11 of the CPC. It is required to be noted that it is not in dispute that the gift deed was executed by the original plaintiff himself*

along with his brother. The deed of gift was a registered gift deed. The execution of the gift deed is not disputed by the plaintiff. It is the case of the plaintiff that the gift deed was a showy deed of gift and therefore the same is not binding on him. However, it is required to be noted that for approximately 22 years, neither the plaintiff nor his brother (who died on 15.12.2002) claimed at any point of time that the gift deed was showy deed of gift. One of the executants of the gift deed – brother of the plaintiff during his lifetime never claimed that the gift deed was a showy deed of gift. It was the appellant herein original defendant who filed the suit in the year 2001 for partition and the said suit was filed against his brothers to which the plaintiff was joined as defendant No. 10. It appears that the summon of the suit filed by the defendant being T.S. (Partition) Suit No. 203 of 2001 was served upon the defendant No.10 plaintiff herein in the year 2001 itself. Despite the same, he instituted the present suit in the year 2003. Even from the averments in the plaint, it appears that during these 22 years i.e. the period from 1981 till 2001/2003, the suit property was mortgaged by the appellant hereinoriginal defendant and the mortgage deed was executed by the defendant. Therefore, considering the averments in the plaint and the bundle of facts stated in the plaint, we are of the opinion that by clever drafting the *plaintiff has tried to bring the suit within the period of limitation which, otherwise, is barred by law of limitation. Therefore, considering the decisions of this Court in the case of T. Arivandandam (supra) and others, as stated above, and as the suit is clearly barred by law of limitation, the plaint is required to be rejected in exercise of powers under Order 7 Rule 11 of the CPC.*

29. At this stage, it is required to be noted that, as such, the plaintiff has never prayed for any declaration to set aside the gift deed. We are of the opinion that such a prayer is not asked cleverly. If such a prayer would have been asked, in that case, the suit can be said to be clearly barred by limitation considering Article 59 of the Limitation Act and, therefore, only a declaration is sought to get out of the provisions of the Limitation Act, more particularly, Article 59 of the Limitation Act. The aforesaid aspect has also not been considered by the High Court as well as the learned trial Court.

20. Per contra, Mr.R.Manickavel, arguing on behalf of the respondents would contend that the allegations of fraud had been made by the plaintiffs and once allegations of fraud is raised before Court, the issue of limitation would pale into insignificance. Further, he would argue that the plaintiffs have been bonafidely prosecuting the proceedings before the Revenue Authorities and therefore, the period taken in prosecuting these proceedings should be exempted.

21. The Learned Counsel would further contend that for rejecting plaint only have to be considered the averments contained in the plaint have to be considered. The plaintiffs have described in detail about the fraud that has been played in manipulating the sale deeds in favour of the defendants and since limitation is mixed question of facts and law, the suit cannot be rejected at the threshold. He further argued that the present suit is saved by the provision of Section 14 of Limitation Act since the plaintiffs were bonafidely prosecuting the Revenue Proceedings. He would rely upon the judgment of this Court in ***K.Chandralekha Vs. S.Ravikumar & others*** reported in ***CDJ 2016 MHC 3520,*** in support of his argument, that the provisions of Section 14 would apply even in the case of Revenue proceedings. He would rely upon the following observations, which are extracted below:-

> *19. It is well settled that the plea of fraud, forgery, impersonation in respect of certain transactions which are put in question, will go to the root of the matter and if such plea is proved, any transaction made however long ago, becomes void abinitio and the person claiming under such fraudulent transaction cannot be permitted to hold such fraudulent title continuously merely because a technical plea of limitation would come to his rescue. Needless to*

say that the technical objections if any raised should be encouraged, considered and decided by the Courts only when such objection, if allowed, would result in rendering the substantial justice between the parties and not subverting the justice.

21 In the said case it was clearly stated that the courts of law are meant for imparting justice between the parties and one who comes to the court, must come with clean hands.

31. A person whose case is based on falsehood has no right to approach the court. A litigant who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If a vital document is withheld in order to gain advantage on the other side he would be guilty of playing fraud on court as well as on the opposite party.

22.The counsel would also rely on the above Judgment to buttress the argument that the plea of fraud, forgery, impersonation etc., taken in respect of transactions if proved, would render the transaction itself void *abinito.* The said judgment has also been quoted to contend that even proceedings pending in the Revenue Court would amount to proceedings pending in a Court as contemplated under Section 14 of Limitation Act since the authorities concerned had all the trappings of a Court. He would also rely on the judgment of ***P.V.Guru Raj Reddy rep. by GPA Laxmi Narayan Reddy & Another Vs. P.Neeradha Reddy & others*** reported in ***CDJ 2015 SC 116,*** with particular reference to paragraph Nos.5 & 6.

> *"5. Rejection of the plaint under Order VII rule 11 of the CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order VII rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that has to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order VII rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments in the plaint ex facie do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of the trial.*
>
> *6. In the present case, reading the plaint as a whole and proceeding on the basis that the averments made*

therein are correct, which is what the Court is required to do, it cannot be said that the said pleadings ex facie discloses that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order VII rule 11 the stand of the defendants in the written statement would be altogether irrelevant."

23. He stated that at the time of rejecting the plaint, the Court should not consider the averments contained in the written statement. The judgment of ***Shaukathussain Mohammed Patel Vs. Khatunben Mohmmedhbai Polara*** reported in ***CDJ 2019 SC 1520*** has been relied upon by the Learned Counsel for the respondents to contend that the transaction had come to the knowledge of the petitioners belatedly and that the plaintiffs continue to be in possession of the property. The Hon'ble Supreme Court, therefore, allowed the appeal and set aside the judgment and decree of the Trial Court.

24. A perusal of the plaint and the document filed in support of the plaint would clearly indicate that the plaintiffs have claimed knowledge about the sale deed only after receipt of the notice issued from the Collector of Chennai in relation to grant of patta in favour of Krishna Nadar. The following statement has been made in the plaint at Para No.8:-

> *"When the children of late Kannappa Mudaliar become major, they received a notice in Revenue Proceedings from the Collector of Chennai in which proceeding Krishnan Nadar applied for the grant of Patta. Only from the above proceedings, the plaintiffs became aware that Krishnan Nadar had fabricated a sale deed as if late. Kannappa Mudaliar had executed the Sale Deed in favour of Krishnan Nadar."*

25. A reading of Document No.11, which is the order passed by the Collector of Chennai, to cancel the patta would clearly indicate that the application for grant of patta had been made by Krishna Nadar at the time of his purchase in the year 1966. Therefore, even on the very pleading of the plaintiffs, it is evident that they had come into the knowledge about the sale in favour of Krishna Nadar as early as in the year 1966. Further, the order of the Collector dated 30.03.2004 would indicate that the Collector has directed the plaintiffs to establish their title through a

Civil Court. This order has been passed in the year 2004. However, the suit has been filed only in the year 2019. Therefore, on a conspectus of the above facts, it is clear that nearly 53 years after the change of patta in favour of Krishna Nadar, of which the plaintiffs even according to their own pleadings was aware, suit has been filed in the year 2019. Even if limitation were to be calculated from the date of the Collector's order i.e., 30.03.2004 also the suit is barred by limitation.

26. The respondents/plaintiffs had pleaded that the entire transaction smacks of fraud and misrepresentation and therefore, being a plea of fraud, there was no limitation for filing the suit. The plea of fraud that has been raised in the plaint once again dates back to the year 1966 when they had received notice from the Collector in respect of the proceedings initiated by the Krishnan Nadar for grant of patta in his favour. The very pleadings with reference to this is found in Paragraph No.8 extracted herein above. Therefore, despite coming to know about the sale deed executed in favour of Krishna Nadar in the year 1966, the plaintiffs has chosen to remain silent for all these years. They cannot now turn around and contend that because a plea of fraud has been raised the question of limitation would not arise. The plea of fraud has been made with the malafide motive of overcoming the limitation.

27. The next defence which has been raised by the plaintiffs is that the period taken for prosecuting the Revenue Proceedings would save limitation. As already submitted even as per the pleadings, the plaintiffs have come to know about the sale of the suit properties in the year 1966 itself. Revenue Proceedings to which the plaintiffs would allude thereafter is also of the year 2005. The Limitation for filing the suit had commenced in the year 1966 itself. The present Revenue Proceedings has been initiated by the purchasers from the legal heirs of Krishnan Nadar in the year 2005. Therefore, it cannot be stated that the plaintiffs were bonafidely prosecuting the proceedings. The plaintiffs by astute drafting is attempting to create a semblance of pleading with reference to fraud so as to overcome the issue of limitation.

28. The Hon'ble Supreme Court in the Judgment in **2019 SCC Online 372** has held that it is no doubt true that limitation is a mixed question of law and facts, however, if on reading of the plaint it is found that the suit is clearly barred by

law of limitation then the same has to be rejected by exercising the powers under

Order VII Rule 11 (d) of C.P.C.

29. The facts applies squarely to the facts of the instant case. The limitation even as per the pleadings had commenced as early as in the year 1966 but however, the plaintiffs has not chosen to file the suit within the period of limitation. Admittedly, the plaintiffs 1 and 2 were majors even on the date of the transfer of patta. Further, the other plaintiffs have also attained age of majority in the 1970's itself. Therefore, the suit is clearly barred by limitation.

30. The other plea that has been raised by the plaintiffs is that, the time taken for prosecuting the case before the Revenue Authorities have to be excluded. As already pointed out the present proceedings before the Revenue Court had taken place nearly 38 years after the plaintiffs have come into the knowledge about the transfer of Patta in the name of Krishnan Nadar. Therefore, it would not lie in the mouth of the plaintiffs to contend that the period between 2005 to filing of the proceedings before the Revenue Court as well as the writ proceedings had to be excluded. The plaintiff had earlier received the notice from the Revenue Authorities when Krishnan Nadar had applied for transfer of patta after his purchase in the year 1966. The present Revenue proceedings which is now sought to be projected as the date of knowledge is the proceedings initiated for grant of patta by the purchasers (the defendants 1 to 5) from the legalheirs of Krishnan Nadar.

31.Therefore, from the very perusal of the Plaint, it is amply evident that the suit is hopelessly barred by limitation and there exists no cause of action for filing the suit as the cause of action projected in only an illusory one.

In fine, the application is allowed and the Plaint in C.S.No.674 of 2019 is rejected.

08.05.2020

Index :Yes/No
Internet :Yes/No
Speaking Order/Non-speaking order
bsm

P.T. ASHA, J,

bsm/mps

Pre-delivery order in
Application No.97 of 2020
& Original Application No.1065 of 2019
in C.S.No.674 of 2019

08.05.2020